



STATE OF COLORADO

COVER SHEET/BID RESPONSE SHEET

SEALED RESPONSES MUST BE MAILED OR DELIVERED TO:
STATE OF COLORADO
DEPARTMENT OF PERSONNEL AND ADMINISTRATION
633 17TH STREET, SUITE 1600
DENVER, CO 80202

SOLICITATION NUMBER:	DEADLINE / DUE DATE AND TIME:
IFB-VESTS-COCOOP-MW07	December 22, 2006 2:30 PM (MST)
DESCRIPTION: BULLET RESISTANT, STAB RESISTANT, TACTICAL AND SPECIAL USE VESTS	
PURCHASING AGENT:	PHONE NUMBER:
Michael Wallace	(303) 866-2328

BIDDERS MUST SUBMIT ONE (1) ORIGINAL PLUS <u>one</u> (1) COPIES OF IFB RESPONSE <u>(Clearly mark ORIGINAL)</u> PER ALL ATTACHMENTS INCLUDED WITH THIS INVITATION FOR BID.
--

F.E.I.N. _____
TERMS _____ (MUST BE AT LEAST NET 30 DAYS)
SIGNATURE _____
TYPED/PRINTED NAME _____
TITLE _____
COMPANY NAME _____
ADDRESS: _____
CITY/STATE/ZIP _____
PHONE: _____ TOLL FREE # _____ FAX: _____

IMPORTANT: THE FOLLOWING INFORMATION MUST BE ON THE OUTSIDE
OF THE IFB ENVELOPE:

- SOLICITATION NUMBER
- OPENING DATE AND TIME

Please be advised that telegraphic or electronic responses (Fax, Western Union, Telex, etc.) cannot be accepted directly in the Purchasing Office as a sealed proposal. Bidders are urged to read the document thoroughly before submitting a response. Response must be signed by representative of the vendor who is legally authorized to bind the offeror to the proposal. Vendor is required to submit Federal Employer Identification Number (F.E.I.N.) prior to payment of P.O. or contract.

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DEFINITIONS

This section contains definitions that are used throughout this procurement document, including appropriate abbreviations.

“Bidder” refers to the person, company, or other entity submitting the bid that constitutes an offer capable of acceptance. For this solicitation, only manufacturer responses are desired. Also, see **“Offeror”** below.

“Contract” means an agreement for the procurement of tangible personal property or services.

“Contractor” shall mean successful Bidder/Offeror who enters into a binding Master Price Agreement.

“Determination” means the written documentation of a decision of a procurement manager including findings of fact to support a decision. A determination becomes part of the procurement file to which it pertains.

“Desirable” The terms “may” and “should” identifies a desirable or discretionary item or factor.

“Distributors”, “Distributors”, Local Distributors” A company who receives products from the Manufacturers, and markets, sells, and distributes the products directly to the end users.

“Evaluation Committee” means a body appointed by the State of Colorado to perform the evaluation of Offeror’s responses.

“Intent to Participate” means the form executed by a State Procurement Official that describes the cooperative procurement and signifies the State’s willingness to enter into the cooperative procurement. For this solicitation Participating Entities shall complete a Participating Addendum with the contractors.

“Lead State” means the State conducting this cooperative solicitation and centrally administering any resulting Master Price Agreement(s). For this solicitation, the Lead State is the State of Colorado.

“Mandatory” The terms “must” and “shall” identify a mandatory item or factor. Failure to meet a mandatory item or factor will result in the rejection of the Offeror’s bid.

“Manufacturer”, “Manufacturers”, “Prospective Bidders” A company who is responsible for the design, construction, and initial distribution of vests.

“Master Price Agreement” means a State of Colorado approved Price Agreement that contains the foundation terms and conditions for the acquisition of Contractor’s Products and/or Services by Purchasing Entities that execute a Participating Addendum.

“National Institute of Justice”, “NIJ”, for more information: <http://www.ojp.usdoj.gov/nij/welcome.html>

“Offer” or **“Bid”** or **“Response”** generally refers to the offer submitted in response to a solicitation, whether denominated as an invitation to bid, invitation for bid, request for proposal, or otherwise.

“Offeror” is a vest manufacturer who chooses to submit a response to this solicitation.

“Participating Addendum” or **“Participating Addenda”** means a bilateral agreement executed by the Contractor and a Participating State or political subdivision of a State that clarifies the operation of the Price Agreement for the State or political subdivision concerned, e.g. ordering procedures specific to a State or political subdivision, and other specific language or other requirements. Terms and conditions contained in a Participating Addendum shall take precedence over the corresponding terms in the Master Price Agreement. Additional terms and conditions may be added via the Participating Addendum. However, a Participating Addendum may not alter the scope of the Master Price Agreement.

“Participating State” or “Participating Entity” means a state or a political subdivision that has indicated its intent to participate by signing an Intent to Participate, or who subsequently signs a Participating Addendum where required, to be a party to the resulting price agreement through the execution of a participating addendum.

“Price Agreement” means an indefinite quantity contract that requires the Contractor to furnish Products or Services to a Purchasing Entity that issues a valid Purchase Order. This solicitation may result in two types of Price Agreements, Permissive and Mandatory. Each participating state will select which type best meets its needs.

“Purchase Order” means an electronic or paper document issued by the Purchasing Entity that directs the Contractor to deliver Products or Services pursuant to a Price Agreement.

“Purchasing Entity” means a Participating State or another legal entity, such as a political subdivision, properly authorized by a Participating State to enter into a contract for the purchase of goods described in this solicitation. Unless otherwise limited in this solicitation or in a Participating Addendum, political subdivisions of Participating States are Purchasing Entities and Participants authorized to purchase the goods and/or services described in this solicitation.

“SPO” is the abbreviation for the State of Colorado’s State Purchasing Office.

“State Procurement Official” means the director of the central purchasing authority of a state or his/her designee.

“Vest” or “Vests” means bullet resistant, stab resistant, tactical, and special use vests.

“WSCA” stands for the “Western State Contracting Alliance”.

INTRODUCTION

PURPOSE OF THIS SOLICITATION

The State of Colorado is requesting bid responses from the Manufacturers of bullet and stab resistant, tactical, and special use vests ("vests"). The purpose of this solicitation is to establish Master Price Agreements on a competitive basis with qualified vest manufacturers for use by participating states.

The primary objective is to establish Master Price Agreement(s) with manufacturers who are able to provide vests so that Purchasing Entities may order a broad range of product(s) as appropriate for their needs.

The second objective is to obtain greater volume-based price discounts resulting from the administrative savings that the Contractor(s) will accrue from the maintenance of a single, comprehensive Master Price Agreement for multiple governmental jurisdictions.

Any state may use the resulting Master Price Agreements. In addition, state purchasing offices may authorize education, state and local governmental entities throughout the nation to use the Master Price Agreements, subject to approval of the local state purchasing director and local statutory provisions.

Manufacturers will be responsible for submitting responses to this solicitation as directed, and also include a list of distributors for each participating state. Individual distributor responses are not desired.

1. BACKGROUND

The Colorado State Purchasing Office, on behalf of the NASPO organization, issued a similar solicitation in 2004, and a State of Colorado Cooperative Solicitation in 2005. DPA is issuing this solicitation in order to increase the awarded number of manufacturers and products to a level than can adequately meet the needs of all participating states.

ALL interested manufacturers must respond to this solicitation, even if they received a prior award from a previous solicitation. Manufacturers who currently have master price agreements shall have those products currently awarded carried over for this solicitation. However, pricing, model numbers, and test results must be re-submitted in their response.

2. PARTICIPATING STATES INFORMATION

The following named states have signed an Intent to Participate Form or have requested to be named in this solicitation as a potential user of the resulting Master Price Agreements:

Alaska
Arizona
Arkansas
Hawaii
Iowa
Idaho
Louisiana
Massachusetts
Missouri
Minnesota
Nevada
New Hampshire

Oregon
Rhode Island
South Dakota
Utah
Washington

SECTION 1: INFORMATION FOR BIDDERS

The following provisions supplement the State of Colorado BIDS Solicitation Instruction and Terms and Conditions.

1. PURPOSE

The Department of Personnel and Administration (“DPA”) seeks bids for the purchase of Bullet Resistant, Stab Resistant, Tactical, and Special Use Vests.

DPA desires responses from Manufacturers with the responses specifying local distributors to be used in each participating state.

All awarded manufacturers will be awarded a Master Price Agreement by the State of Colorado. The term will be for two initial years, with 3 one-year renewal options. Previously awarded master price agreements will be canceled once the effective date for the awards from this solicitation are established.

Any state signing a “Participating Addendum” may use the resulting Master Price Agreements. In addition, state purchasing offices may authorize education, state and local governmental entities throughout the nation the use of the Master Price Agreements, subject to approval of the local state purchasing director and local statutory provisions.

2. POINT OF CONTACT INFORMATION

All information regarding this solicitation will be provided to vendors directly through:

State of Colorado
Michael Wallace
State Procurement Officer
Department of Personnel and Administration
633 17th Street
Suite 1600
Denver, CO 80202
Michael.Wallace@state.co.us

All communications from DPA will be distributed via the Colorado BIDS system. All communication from the vendors during the bidding process shall be through the contact information above.

3. VENDOR FORMS

In the event bidder’s form(s) or part(s) of forms are included as an attachments(s) to the Price Agreement or any order against the Price Agreement, bidder agrees that, in the event of inconsistencies or contradictions, the terms and conditions of the solicitation document shall supersede and control over those contained in the bidder’s form(s) regardless of any statement to the contrary in bidder form(s). Unless otherwise specifically agreed to in the terms of the resulting purchase order or contract, vendor terms governing choice of law, venue, disclaimer of warranties, limitation of liability and damages, or indemnification are of no effect.

SECTION 2: INSTRUCTIONS TO BIDDERS

All bidders who wish to submit a response to this solicitation are required to conform to the following:

1. REQUIREMENTS

Bidder must have the ability to perform according to the terms of this bid. Bidder will be required to have 2 years experience in providing this type of product line to state level organizations. The apparent successful bidders may be required to provide additional information to determine responsibility. This information may include, but is not limited to previous experience of company; years in business; quality and condition of equipment; financial condition; references as to size and scope of work done within the last two years.

All awarded manufacturers must extend the awarded pricing to distributors in all participating states who sign the Participating Addendum.

No manufacturer will change local distributors without 60 days written notice to the applicable state.

MANUFACTURERS INFORMATION

All manufacturers must have a central point of contact, and the information regarding this person shall be submitted with the bid. **Direct contact information** is required.

COMMUNICATION/INFORMATION

The State of Colorado, DPA will be the sole point of contact for this solicitation.

DPA will only distribute information regarding this solicitation to Manufacturers. Any other parties, including distributors and independent manufacturer representatives, must contact their specific manufacturers in order to receive information.

2. MULTI-STEP SEALED BIDDING

This solicitation is being issued as a Multi-Step Sealed Bid in accordance with Procurement Rule R-24-103-202a-12, which consists of two phases:

1. Phase 1 – Technical Evaluation
2. Phase 2 – Pricing Evaluation

Both Phase 1 and Phase 2 will be conducted as outlined in Section 5 – Testing Standards and Procedures.

For this solicitation, only Bullet Resistant Vests, also known as concealable body armor, will be subject to the Phase 1 – Technical Evaluation. These vests will be tested at Threat Level II, IIA, and IIIA (whichever Threat Level specifically applies). Manufacturers who have submitted test results for prior solicitations, and have been awarded will have to re-submit their test results to DPA for consideration.

Other types of vests such as Stab, Tactical, and Special use vests will only have Phase 2 Pricing evaluation completed.

Manufacturers will also provide payment to the independent test lab for testing as outlined in Section 5: Testing Standards and Procedures. This will include retests, and all future testing, as needed under the resulting Master Price Agreements.

The State of Colorado reserves the right to award to responsive and responsible bidders, based on the evaluation and successful testing of products and lowest price of these products. It is anticipated that a minimum of 8 products for each threat level or category of vests will be awarded.

3. BID SUBMISSION DATES AND TIMES

Phase 1 - Technical Evaluation Submittal

An original plus 1 copy (total 2) of the sealed bid, including cover page with original signature must be received no later than **December 22, 2006 2:30 PM (MST)** at 633 17th Street, Suite 1600, Denver, CO 80202. Please mark your sealed bid envelope with the IFB number, date and time of bid opening. CLEARLY mark the original response "ORIGINAL" and each copy "COPY". Numbering of copies is not required. Only the response marked "ORIGINAL" is required to have the original IFB Cover Sheet; all copies may have a copy of this sheet.

In accordance with Procurement Rule R-24-103-202a-12 (c) (iii), NONE of the Phase 1 responses will be publicly opened, and all response materials will remain confidential until awards are made.

Bidder is responsible for all costs related to their response of this bid.

Phase 2 -Pricing Submittal

All Phase 2 – Pricing submittals shall be submitted in a sealed envelope clearly marked "Phase 2 – Pricing". All Phase 2 – Pricing envelopes will be opened by DPA after completion of Phase 1 – Technical Evaluation.

Prices are all-inclusive, and shall cover all aspects of performance for all products on the Master Price Agreements in all participating states. All prices bid are FOB (Free On Board) Destination. All prices shall include measurement and fitting of vests. Awarded manufacturers, their representatives, and designated distributors may not charge trip fees or other expenses for travel to measure, fit, and deliver vests, unless specifically authorized to in writing by the end user.

4. PRE-BID MEETINGS

Phase 1 Submittal:

There is a **PERMISSIVE Pre-Bid** meeting on **December 08, 2006** at 10:00 am (MST). The location of this meeting is:

State Emergency Operations Center
9195 E. Mineral Ave
2nd Floor
Centennial, CO 80112

This meeting is **PERMISSIVE**, and **ALL** prospective bidders **SHOULD** attend. Local distributors or local manufacturers representatives may attend, but should be representing only one manufacturer.

Phase 2 Submittal:

There may be an additional pre-bid meeting at the discretion of DPA. Date and time will be announced later.

WRITTEN QUESTIONS

Written questions are due no later than 5:00 pm (MST) on **December 12, 2006**. E-mailing questions is preferred, to:
Michael.Wallace@state.co.us

5. INFORMATION AND COMPLIANCE LETTERS:

In response to the bid, bidders are requested to provide the following information:

1. A letter, addressing the following:

- A. Brief description of prior experience providing vests and number of dealers/distributors available for use.
- B. Manufacturer contact information to include direct contact phone number, address, and email. NO general numbers or mailboxes will be accepted.
- C. All bidders MUST agree to notify DPA within 30 days of issuance of recalls, warranty replacements, etc.
- E. All manufacturers must clearly explain replacement policies, procedures, and other applicable information in the event vests need to be replaced.
- F. All responding manufacturers must specify that all successful test results will be provided to the State of Colorado by the testing lab used for all of the products submitted.

A **second letter**, with a complete list of distributors (for each participating state listed in Appendix A):

- A. Include the contact name, phone number, fax number, **email address**, and address for each distributor

6. MANUFACTURERS LIST AND PRICING INFORMATION

Manufacturers will submit a **one-page list** of submitted concealable body armor, to include model numbers and estimated test dates.

- A. Make and Model Name/Number of vest, Designation for Use (Concealable, Stab, Tactical, or Special Use). (Name/Number must remain consistent throughout testing and award period. No changes permitted. Differing suffixes are acceptable.)
- B. Threat Level of vest
- C. General description of materials and fiber content of vest, i.e. layers of each material type used, thread count, etc.
- D. Adherence to the following standards (also see below):
 - i. NIJ Standards 0101.04 (concealable), including the 2005 Interim Standard OR 0115.00 (stab)
 - ii. Ballistic Limit Determination – NIJ

Manufacturers shall include in their response the original certification test results from the NIJ Certification testing. **Please DO NOT submit any pricing information inside the Phase 1 response.**

Prices will be applicable to all aspects and requirements of this IFB and for the resulting Master Price Agreement(s).

The resulting Price Agreements will be for the Pricing List and specific unit price that the bidders submit in their response.

All Pricing responses will include two carriers and one trauma plate.

Price reductions offered to any Colorado state agency or political subdivision, attributable to other than volume discounts or “spot” promotional discounts, will be made available to the State of Colorado and all other political subdivisions via this price agreement. Participating states may include this provision in their participating addendums at their discretion.

7. RESPONSES

All offerors shall include the following in their responses:

1. Signed and Completed Cover Sheet/Bid Response Sheet
2. Both letters completed as directed in Part 5 and the Manufacturer's List as specified in Section 6, above.
3. Submittal of the Manufacturer's Pricing List and completed Pricing Sheet(s) (attached) as directed
4. Submittal of the Manufacturer/Distributor Assignment Sheet (page 23) for each distributor to be assigned **(Note: This requirement is waived as due in your response, but must be provided prior to any award)**
5. Proof of insurance coverage
6. Manufacturers Warranty for each product submitted – Clearly specify period of performance. Warranty periods shall begin when armor is issued.
7. Copies of Certifications and/or applicable information for:
 - a. National Institute of Justice (NIJ) Standards–0101.04, 2005 Interim Compliance Standard, and 0115.00 (Stab Armor)
 - b. NIJ test results for Ballistic Limit Determination (V50) test results
 - c. ISO 9001 Quality Assurance Certification (Pending or in-process is acceptable)
 - d. ANSI-ASQC – Q9000 Quality Standard, if applicable
8. Copies of prior test results for National Institute of Justice (NIJ) Standards–0101.04 and 0115.00 (Stab Armor) AND Ballistic Limit Determination (V50) test results. Also include NIJ 2005 Interim Requirement Compliance information.
9. A complete record of all serial numbers of products to be submitted for testing (Ballistic Armor ONLY). Random sampling is desired. Serial numbers should not be of the same “series” and must demonstrate different lots or manufacturing of vests.

Overly elaborate responses are NOT required or desired. A minimum font size of 11 is required.

All manufacturers responding to this solicitation are asked to provide the original in a professional format, enclosed in a loose-leaf binder, with clearly labeled and indexed contents. Copies may be submitted with copies of all requested information binder clipped together. **PLEASE DO NOT STAPLE!!**

8. REJECTION AND CANCELLATION

DPA reserves the right to reject all bids and re-solicit at any time prior to contract start date. DPA reserves the right to cancel the bid in its entirety at any time without penalty. All prices and notations shall be printed in ink or type written on the bid documents. Illegible bids or writing shall be deemed non-responsive and will not be evaluated. A bid with missing or inconsistent information may be considered non-responsive and may not be evaluated. Do not qualify your bid nor alter the bid format. DPA will be the sole judge in determining the acceptability of an offer. DPA also reserves the right to reject any or all bids in part or in whole and to waive technicalities as allowed in the Procurement Rules. DPA reserves the right to make multiple awards from this bid.

SECTION 3: SPECIFICATIONS AND FUNCTIONAL REQUIREMENTS

1. MASTER PRICE AGREEMENTS AND FEES

A. MASTER PRICE AGREEMENTS

The State of Colorado reserves the right to negotiate any areas of responsibility and/or additions that become evident during the length of the resulting agreement, either for the benefit of the State of Colorado or other participating states.

2. PRICING AND VOLUME

Prices must remain firm for the first 12 months of the agreement. Thereafter, only one increase will be allowed in any 12-month period. Any price increase requested shall be made in writing 30 days prior to the anticipated increase. **Increases shall become effective once approved by the DPA.**

Documentation shall be supplied with the manufacturer's increase request that will verify that the requested price increase is general in scope and not applicable just to this multi-state price agreement. No volume against the resulting agreement is guaranteed by the State. Orders placed prior to the effective date of the price adjustment will be honored at the old contract price.

3. GENERAL CONFIGURATION

All manufacturers submitting products in response to this solicitation shall submit only products that meet the following minimum standards:

A. STANDARDS

1. National Institute of Justice (NIJ) Standards—0101.04, NIJ 2005 Interim Requirement, and 0115.00 (Stab Armor)
2. All vests must meet NIJ Threat Levels as applicable, as indicated on the attached Pricing Sheets. These levels are:

**Level II
Level III**

Level IIIA

**Tactical Vests
Stab Resistant**

(Note: NO Threat Level IIA vests will be accepted or awarded.)

3. NIJ Ballistic Limit Determination (V50) testing
4. ISO 9001 Quality Assurance Certification (Pending or in-process is acceptable)
5. Warranty periods specified to begin when body armor is issued, not manufactured.

B. LABELING

Label material shall withstand normal wear and cleaning and remain readable during the entire warranted life of the armor or carrier.

All vests shall be labeled in strict adherence to any applicable laws and regulations, including the labeling requirement according to NIJ Standards 0101.04 and the 2005 Interim Requirement, and 0115.00 (Stab Armor). This shall include, but not be limited to the following:

1. Name of Manufacturer

2. Level of Protection (NIJ Standard)
3. NIJ STD 0101.04 **OR** 0115.00 (Stab Armor)
4. Date of Fabrication
5. Size
6. Serial Number – **Manufacturer and Distributor MUST have ability to trace these numbers**
7. Model name and number of Vest – The model name and number shall match all submitted pricing info, and for concealable armor, also match all test results. Suffixes for designation purposes are acceptable.
8. Care Instructions
9. Lot Number

C. QUALITY CONTROL

All vendors must ensure manufacturer compliance and certification with **ISO 9001** certification program by an accredited registrar under the accreditation of the Registrar Accreditation Board (US) and the Raad Voor de Certificate (Dutch). The scope of the certification must include the Design and Manufacturing of technology advanced personal safety equipment including concealable and tactical bullet resistant vests, custom body armor, composite armor, explosive ordinance protection, ballistic face and head protection, ballistic shields, and other police and military apparel, and narcotic identification systems.

A copy of the Certificate of Accreditation, as well as the manufacturer's quality control program, must be submitted with bid documents. The only exception to this will be pending or in-process certifications, for which the Certificate requirement will be temporarily waived, but a description of the quality control program will be included. All manufacturers who have pending certifications will notify the DPA of any changes immediately.

The documented quality control system must be designed to insure the integrity of the manufactured products. The quality control system shall control all manufacturing process and incoming raw materials. The manufacturer must have an in-house ballistic laboratory capable of performing ballistic testing of incoming raw materials and in-process samples. Procedures for lot testing of incoming raw materials and in-process samples must be incorporated into the quality control system.

D. BALLISTIC LIMIT DETERMINATION

Samples of all incoming ballistic material shall undergo Ballistic Limit Determination tests as specified in NIJ 0101.04. Every vest panel manufactured shall be inspected for material defects and proper ply counts. Every vest panel manufactured shall be subsequently inspected for proper ballistic stitching. Covers and accessories shall be re-inspected during manufacturing for defects at selected points during manufacturing to assure the absence of hidden defects in the final item.

All vests shall include a final inspection before shipment. All inspections will include a review of the quality control check sheet and confirm the product against the customer's order.

E. MEASUREMENT AND FITTING

All manufacturers, through local distributors or factory representatives, must be capable, when requested, of providing trained personnel for the purpose of taking measurements of users. While it is not the intent to have vendors respond to locations for the purpose of fitting only one or two users, vendors may do so. The intent of having vendors respond to user's locations is geared more to the academy-sized classes or bulk orders.

All measurements must be made according to industry standards and must take into account all clearances of panels and duty belts. Male sizes are to be per industry standards, and female standards

should also include bust size. Ordering agency personnel shall specify the minimum requirements of clearances or reference published standards. In addition to the above, ALL concealable vests sold SHALL have a 2" overlap on side panels for fitting. Any issues raised regarding standardized fitting requirements will be discussed with manufacturers and made part of the resulting awards as such issues come up.

All awarded manufacturers and designated distributors shall provide information to requesting law enforcement agencies regarding the care and proper maintenance of bullet and stab resistant armor. A short briefing to academy classes regarding care and maintenance during fitting and measurement visits is required.

F. FIT AND ALTERATION POLICY

All awarded vendors must provide any required alterations within 30 days of such requests at no charge. Major refits or unusual requests may be subject to minor fees. State Purchasing for each of the participating states will make final determinations if needed regarding this issue.

G. WARRANTY

Bidders are required to provide warranty information in their responses to this solicitation. Warranty information must include the terms and conditions for each specific model of vest.

Any prospective bidder who submits warranty information for products shall meet the following requirements:

1. Bidder's responses that contain products currently in use shall have the same or better warranty periods, terms, and conditions that were in effect on these products prior to the issuance of this solicitation. No modifications or changes to prior warranty information are acceptable.
2. For new products not currently in use, bidders shall provide all warranty information.
3. Bidders responses shall clearly explain the length of the warranty period, and all applicable terms and conditions.
4. The State of Colorado will evaluate the warranty information given for any product in the bidders response to determine whether the product will meet the requirements specified in this Invitation for Bid.

SECTION 4: PERFORMANCE REQUIREMENTS

1. PERFORMANCE

Awarded vendors shall comply with the requirements as to performance, timeframes, etc. If a winning bidder fails to perform, the State of Colorado reserves the right to take remedial action, including canceling the award (with 10 day written notice) for cause (default). Cause is defined as failure to meet requirements of the specifications and conditions or to correct deficiencies upon receipt of notice. Failure to maintain satisfactory performance after notice will be sufficient cause for immediate cancellation of the award. (See also Section B, 2.6.2, Colorado Solicitation Terms and Conditions.)

Awarded vendor(s) are required to perform under all applicable State laws.

All vendors are expected to become familiar with the ordering agency's rules, policies, and procedures regarding vests.

2. DELIVERY

All distributors must provide vests in an "off-the-shelf" capacity when requested. Manufacturers must specify delivery time of vests on the attached Pricing Sheet. Distributors shall also provide carriers, trauma plates, and other basic vest supplies on a "off-the-shelf" capacity. This capacity is NOT intended for large or multiple orders of vests.

All manufacturers shall indicate on the IFB Cover Sheet the standard delivery date for regular orders. Manufacturers or Distributors must disclose delivery date to ordering entity at time order is placed.

2. QUARTERLY VOLUME REPORTS

The vendor will be required to submit quarterly volume reports for their company to the State Purchasing Office. A vendor's failure to submit these any report required in this section in a timely manner, and in a format acceptable to the state, shall be sufficient cause for the state, at its sole discretion, to terminate their price agreement for cause. Reports are due within 15 (fifteen) calendar days of the close of each calendar quarter.

Participating states may specify additional volume reporting requirements in participating addendums or at any time during the performance period.

For the master price agreements, each awarded vendor shall provide to the State of Colorado the following:

1. Identity and volume for each ordering entity (by state agency or political subdivision);
2. Number of entities and total number/volume of orders for each political status category (state agency or political subdivision) for the quarter;
3. Total dollar value of purchases by each political status category (individual NASPO state agencies or political subdivision);
4. Estimated cost savings based on volume and discounts from established list and catalog prices (using a format established by the State Of Colorado)

The State Of Colorado will provide all awarded vendors with a Volume Reporting form that can be completed. Additional instructions and minor requirements for volume reporting will be discussed after award.

The contractor must also provide detailed reports to any state agency requesting usage for their agency against this state price agreement

The State of Colorado specific volume reporting requirements are specified in Appendix B, State of Colorado Price Agreement Terms and Conditions, 2.5 "Volume Reporting".

4. COMPREHENSIVE SALES HISTORY REPORTS

In addition, Vendor(s) receiving resulting award(s) must furnish comprehensive sales history reports to the State approximately once per year or at any time within 15 days notice from the State Purchasing Office that these reports are needed. Comprehensive reports may contain the information above for the particular time period requested (normally 10 to 12 months) requested as well as 1) the dollar amount purchased for each category listed in this bid and on resulting award, and 2) the quantity sold of each individual product purchased on the price agreement.

5. WSCA FEE ASSESSMENT

ALL awarded vendors will be required to submit a 1% fee of total sales to WSCA. Information regarding methods of payment and other information will be provided to awarded vendors.

6. RECALL NOTICES

ALL awarded manufacturers will be responsible for notifying the DPA and all agencies using their Price Agreements of Recall notices, Warranty Replacements, Safety notices, or ANY applicable notice regarding the products being sold.

Manufacturers must notify the DPA of all recalls, Warranty Replacements, Safety Notices, etc., in writing within 30 calendar days. All awarded manufacturers will notify the DPA by phone or email IMMEDIATELY of any recall, safety notice, warrant replacements, or issues regarding the safety of officers. Failure to notify the DPA **shall** result in the immediate cancellation of the award

SECTION 5: NEW VEST TESTING STANDARDS AND PROCEDURES

All manufacturers submitting a response to this solicitation will be evaluated using a Multi-Step Sealed Bid process. This process is as follows:

1. MULTI-STEP SEALED BID

PHASE 1

A. MANUFACTURER LIST OF PRODUCTS

All prospective bidders will submit a response sheet consisting of a complete Manufacturer's List ("ML") of offered products. This ML list will specify the following:

- E. Make and Model Name/Number of vest, Designation for Use (Concealable, Stab, Tactical, or Special Use). (Name/Number must remain consistent throughout testing and award period. No changes permitted. Differing suffixes are acceptable.)
- F. Threat Level of vest
- G. General description of materials and fiber content of vest, i.e. layers of each material type used, thread count, etc.
- H. Adherence to the following standards (also see below):
 - iii. NIJ Standards 0101.04 (concealable), including the 2005 Interim Standard OR 0115.00 (stab)
 - iv. Ballistic Limit Determination - NIJ
 - v. Manufacturers shall include in their response the original certification test results from the NIJ Certification testing.

B. TESTING - NEW

All ballistic protection products submitted on the ML will be sent to the State of Colorado for inspection to ensure the test vests are demonstrative of actual production vests. The test samples shall be production vests, which are demonstrative of products in use by law enforcement personnel. These test samples shall be finished, fully ready for use vests.

Serial numbers for all ballistic products will be submitted to DPA with each manufacturers response. Random sampling is desired. Serial numbers should not be in series, and should show that random sampling has occurred. The State will confirm random serial and lot numbers, and record these numbers for tracking purposes.

The State of Colorado will forward the products to the requested test labs upon final approval. All products will be tested according to the NIJ 0101.04 Standard in entirety, including Ballistic Limit Determination testing.

NOTE: New vests will not be required until after January 01, 2007. The SPO will notify eligible manufacturers as to where to send the vests.

Each manufacturer shall also submit samples for Male and Female vests. Manufacturers are not required to submit both, but there will be no consideration for a male or female version of the product if that gender was not submitted for testing.

Acceptable test results will be:

1. Full Compliance with all current NIJ standards, specifically 0101.04 and the 2005 Interim Compliance Standard.

Ballistic Limit Determination Test results will not have more that -10% total deviation from the original NIJ 0101.04 certification test results, and must also have test results at least 200 fps above highest NIJ reference velocity.

2. Minimum results for BFS shall be 38 mm or less

After the completion of the New Vest testing as specified above, and the test results are provided to the State of Colorado, Used Vest testing (as specified below) will proceed.

C. USED VEST TESTING

This protocol establishes the parameters for concealable body armor throughout the expected performance period, years 1 – 5 of use.

1. Samples will be collected from member and non-member states. Used vest samples are collected by end using agencies and the samples would have an evaluation process to determine a normal, or median-wear score based on established criteria. Panels scoring an acceptable wear history and appearance would proceed to testing at an NIJ certified test lab. Samples will be collected and inspected for wear according to the following:

Condition 1: Light wear – no set wrinkles – like new

Condition 2: Moderate wear – minimal set wrinkles at waistline

Condition 3: Significant wear – extended daily use – minor set wrinkles in chest area – moderate to heavy wrinkles on panel edges – light abrasion on cover – staining

Condition 4: Abusive wear – moderate to heavy set wrinkles throughout panel – blatant holes in ballistic panel cover – heavy staining. **No Condition 4 vests shall be tested.**

The following procedure will be used for collection of samples:

1. Participating states will identify agencies that have potential samples (panels only) for testing
2. Samples will be identified as acceptable for testing, and serial numbers will be recorded
3. Manufacturers will provide replacement panels to the end user whose vest will be collected for testing. (If the end user requests changes to their new panels, this cost will be paid for by the end user or their agency)
4. Samples will be sent to DPA for inspection and recording of serial numbers

Samples will be forwarded to one of two test labs and tested according to the VEST Protocol.

Manufacturers will be responsible for test costs.

Specific details regarding this process will be discussed with awarded manufacturers after January 01, 2007.

2. 3 (three) sample vests will be collected for each threat level, II and IIIA, and for each year the model has been in service. Sizes as follows:

Male size tested shall be LR – Large Regular - CHEST 42"- 44" NOT TO EXCEED 44" and WAIST NOT TO EXCEED 38"

Female size tested shall be Female MR – Medium Regular "B-C" CUP - FEMALE MR WAIST 32"-34"

3. 2 of 3 sample vests collected will be required to undergo **pass/fail** testing, with the following minimum requirements:

All vests will be tested with BOTH NIJ reference rounds as specified according to threat level.

II 9mm Full Metal Jacketed Round Nose, 124 gr.
 357 Magnum Jacketed Soft Point, 158 gr.

IIIA 9mm Full Metal Jacketed Round Nose, 124 gr.
 44 Magnum Jacketed Hollow Point, 240 gr.

ALL vests will be tested with alternating test rounds on the front and rear. For example, of the 2 samples collected, 1 front panel will be tested with the specified 9mm round and 1 rear panel will be tested with the 9mm round. The same will occur with the second reference round, 357 or 44 mag. as applicable.

4. Each panel will be hit with 6 shots, according to the following:

Velocities:

For both test rounds used (according to threat level):

Year 1 vests will be shot with +150 fps of the NIJ 0101.04 reference velocity.

Years 2 – 3 vests will be shot with +100 fps of the NIJ 0101.04 reference velocity.

Years 4 - 5 vests will be shot with +50 fps of the NIJ 0101.04 reference velocity.

NO TEST ROUND SHALL FALL BELOW THESE VELOCITIES OR BE DEEMED AN UNACCEPTABLE TEST SHOT!

Shot Placement:

- MALE LR 6 SHOTS PER PANEL (12 TOTAL PER VEST)
- FEMALE MR 6 SHOTS PER PANEL (12 TOTAL PER VEST)
- SHOT PLACEMENT MALE LR (ALL 3 0 DEGREES), FRONT AND REAR PANELS -
1, 2, & 3 PER NIJ 0101.04, 2" FROM EDGE ON SHOT 1,
SHOTS 4 & 5 WITHIN 3" CIRCLE CENTER MASS, (NO SMOOTHING) SHOT 6 OBLIQUE
SHOT (PER NIJ 0101.04) IN CIRCLE CENTER MASS
- SHOT PLACEMENT FEMALE MR - SAME AS MALE, EXCEPT:
SHOT 2 FOR FRONT ON SEAM, 2" FROM EDGE, REAR REGULAR SHOT PLACEMENT

If all 12 shots fail to penetrate the panel at all, then the product would be judged to comply with the used vest standard.

Penetration is defined as a round or any part of a round penetrating 91% of a panel or more. For instance, if a vest panel has 20 layers, the last two layers must not allow a penetration of the test round, in part or whole.

For vest layer numbers that may be odd numbered, the number of layers allowed to be penetrated will be rounded up. For instance, if a panel has 21 - 29 layers, than 3 layers must remain un -penetrated. Panels with 31 – 39 layers must have 4 layers that remain un – penetrated.

Any panel allowing penetration would be un-acceptable for complying with a used vest standard.

V50 Testing:

1 of 3 of the sample vests will undergo V50 testing with the 9mm reference round and must show the following minimum results:

YEAR 1 – 170/FPS ABOVE HIGHEST REFERENCE VELOCITY “

YEAR 2 – 140/FPS ABOVE HIGHEST REFERENCE VELOCITY

YEAR 3 – 110/FPS ABOVE HIGHEST REFERENCE VELOCITY

YEAR 4 – 80/FPS ABOVE HIGHEST REFERENCE VELOCITY

YEAR 5 – 50/FPS ABOVE HIGHEST REFERENCE VELOCITY

D. STANDARDS CHANGES AND UPDATES

In the event that an update, change, modification, or new revision of existing standards and procedures is made by the NIJ or other government agency, will be reviewed by DPA and discussed with awarded manufacturers before inclusion onto the master price agreements.

E. DATA COLLECTION AND REPORTING

The results of each armor test will be recorded on the Compliance Test Report Form (“CTR”) as specified in Appendix A of the NIJ 0101.04 Standard. However, this form will not be turned in to the NIJ, but completed and turned in to DPA. The “header” of the CTR will be changed by the test lab to the following:

“State of Colorado CVT Compliance Test Report”

F. FAILURES OF TESTING

If any product fails during any stage of the test process, the following procedure will be followed:

Failure #1 – Manufacturer will be notified. The State of Colorado and manufacturers will discuss test data and results, and more samples will be collected for re-testing.

Failure #2 – Manufacturer will be contacted. Possible suspension of product from the resulting Price Agreement might occur.

Failure #3 – Manufacturer will be contacted. Product shall be removed from Price Agreement, and replacement/warranty procedure will be negotiated by the State of Colorado for all participating states.

Multiple Failures of Testing – If during testing, any product shows multiple failures during any of the test process, the State of Colorado may decide to remove the product from the Price Agreement, and negotiate replacement/warranty remedies.

G. FIELD FAILURE

ANY occurrence of a field failure, where a product fails during actual use, SHALL result in an immediate suspension of the product, and implementation of a modified used vest test protocol will occur.

Any manufacturer who does not comply with this procedure SHALL have their price agreement in entirety CANCELLED for use by any member state.

H. NEW PRODUCT TESTING

All manufacturers will participate in all aspects of testing at appropriate times depending on how long their product has been available in the field.

ALL new products will have a minimum of 1 (one) year of history of use before being considered for award or testing under the resulting price agreement.

SECTION 6: PHASE 2 – PRICING SUBMITTALS

Once a product has passed the verification test and criteria as specified, and all test results are received from the test lab, it will be judged "Acceptable", and be eligible for proceeding to the Phase 2 - Pricing evaluation.

Once the product has been tested and has satisfactorily passed the CVT, the test lab shall send a complete copy of the test results to DPA.

Only prospective bidders whose products that are judged Acceptable will have Phase 2 – Pricing responses opened. Manufacturers who have submitted products passing Phase 1 will be notified via a posting on the Colorado BIDS System, and notified via separate email as to which products will be considered for Phase 2.

PHASE 2

2. All prospective bidders whose products in Phase 1 that were deemed "Acceptable" will have Phase 2 – Pricing sheets opened.
3. This pricing sheet will include ALL requested information.

Each manufacturer is requested to submit copies of their pricing sheets on a 3.5" floppy disk or CD-ROM. Please do not include anything but the pricing sheets on the floppy disk or CD-ROMs.

Both responses, Phase 1 and Phase 2, shall include an "IFB Cover Page" completed in entirety attached to their responses, and signed in ink.

Section 7: PRICING RESPONSE SHEET

MANUFACTURER NAME: _____

MODEL: _____

THREAT LEVEL: _____

TYPE: _____

(CONCEALABLE, TACTICAL, STAB, SPECIAL USE)

LIST PRICE: \$_____ **BID PRICE: \$**_____

(PRICE INCLUDES TRAUMA PLATE AND TWO CARRIERS)

AVAILABLE FOR: **MALE** _____ **K-9** _____

FEMALE _____

IN USE FOR _____ **YEARS.** _____ **MONTHS. (BE SPECIFIC. GOOD ESTIMATES ARE ACCEPTABLE)**

UPGRADES:

(EXTRA CARRIER, TRAUMA PLATE UPGRADE, ETC.
PLEASE LIMIT TO 10 ITEMS PER VESTS)

PRICING

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

_____ \$ _____

Additional Information/Comments:

MANUFACTURER/DISTRIBUTOR ASSIGNMENT

_____ has been awarded Master Price Agreement

for the purchase of:

_____ Bullet Resistant Vests

_____ Stab Resistant Vests

_____ Tactical Vests

_____ Special Use Vests

These products will be purchased through local distributors as listed below:

State: _____

Distributor Name: _____

Distributor Address: _____

Distributor Contact: _____

Distributor FEIN: _____

(Separate sheets or lists may be attached for the above Distributor information)

Distributor Email: _____

The local Distributor(s) listed above (or on attached sheet) will provide products and services as specified in the Master Price Agreement(s).

All government agencies using the Master Price Agreement may issue purchase orders (or other commitment documents) and remit payment to the Distributor(s) specified above.

The Manufacturer will assign all performance requirements under the Master Price Agreement to the specified Distributors.

Signed: _____
(Manufacturer Representative)

Date: _____

Signed: _____
(Distributor Representative)

Date: _____

(Name Of Distributor)

SECTION 8: TERMS AND CONDITIONS

On the solicitation page, the following information is posted:

“Except as replaced, modified, or supplemented by the procuring agency in this solicitation, the State of Colorado Solicitation Instructions and Terms and Conditions apply to solicitations published on BIDS. **Click here to see the current and prior versions of the Solicitation Instructions and Terms and Conditions.**”

Please click the link **on the solicitation page** for the State of Colorado Solicitation Terms and Conditions.

PRICE AGREEMENT TERMS AND CONDITIONS

Terms and Conditions for State of Colorado Price Agreements are attached as Appendix B.

Terms and Conditions for participating states are attached (not all participating states have chosen to have their terms and conditions attached).

The State may immediately terminate this contract by providing written notice of termination to the Contractor if the Contractor is terminated for cause by any participating state to the State's Master Price Agreement. The State or participating state will not be liable for any costs incurred by the Contractor if termination is for any of these causes.

APPENDIX A

PARTICIPATING STATES LIST

The following states have signed Intent To Participate forms for participating in the resulting Master Price Agreements.

Alaska
Arizona
Arkansas
Colorado
Hawaii
Iowa
Idaho
Louisiana
Massachusetts
Minnesota
Missouri
New Hampshire
Nevada
Oregon
Rhode Island
South Dakota
Utah
Washington

APPENDIX B

STATE OF COLORADO PRICE AGREEMENT TERMS AND CONDITIONS

1. GENERAL

1.1 Effect of Price Agreements. The State of Colorado is issuing this solicitation through the procuring agency to select vendors with which to execute State price agreements. The State Purchasing Office will administer the Price Agreement(s) after award. These instructions are intended to summarize the State's procurement process and provide instructions to offerors, but they are not intended to modify procurement statutes and implementing rules. These instructions supplement the BIDS Solicitation Instructions and Terms and Conditions and solicitation instructions in the procuring agency's solicitation.

1.1.1. If a State price agreement is designated as "mandatory," the State agencies and institutions by regulation must satisfy requirements through the price agreement. Exceptions may be granted by the State Procurement Manager on application by the agency or institution involved.

1.1.2. If a State price agreement is designated as "permissive," State agencies and institutions may satisfy their requirements through the price agreement without using Procurement Code procedures (e.g. invitations for bids) to solicit competitive bids or proposals. State agencies or institutions may, however, satisfy requirements without using the State price agreement so long as applicable procurement statutes and rules are followed.

1.1.3. While political subdivisions may order from State price agreements, their use is discretionary with the political subdivision.

1.2. Effect of Estimates/Minimum Orders. Estimates of historical usage are provided for information purposes only. The State does not warrant the accuracy of the estimates or that future usage will be the same. Unless stated otherwise in the award in order to take advantage of price reductions proposed by the vendor, there is no minimum order required in any resulting award.

1.3 Definitions.

"Ordering entity" means a State agency or institution or political subdivision which may issue orders against this price agreement.

"Vendor" refers to any person or entity executing a price agreement as a result of an award, and has the same meaning as "contractor" or "offeror."

2. STATE PRICE AGREEMENTS.

2.1. Price Increases/Decreases.

2.1.1. Unless otherwise limited in the solicitation, requests for price increases, substantiated by verifiable manufacturer cost increases, will be allowed only on the basis of prior approval by the State Purchasing Office, and no more than one request in a 12-month period will be honored. However if price increases for any item exceed what the State Purchasing Office considers to be normal or expected the State reserves the right to seek additional competition and/or buy those products from other sources. Failure to notify the State of price increases shall result in the vendor furnishing products at the original bid price.

2.1.2. Price agreement prices represent ceiling prices for the supplies and services priced in this price agreement. The vendor shall report to the State Purchasing Office any price

reduction or discount, or other more favorable terms, offered to any ordering entity (State agency, institution, or political subdivision), and the awarded vendor agrees to negotiate in good faith to reestablish ceiling prices or other more favorable terms and conditions applicable to future awards. Price reductions attributable to other than volume discounts or "spot" promotional discounts will be made available to other ordering agencies via this price agreement, and such pricing shall be automatically extended to this price agreement.

2.1.3. Ordering entities (State agencies, institutions or political subdivisions) may consolidate purchases in order to take advantage of any volume discount or other, more favorable terms extended by vendor for minimum orders (if any is specified in the bid), so long as a single delivery location at the discretion of the ordering entity is specified. Where no volume discount is priced in this agreement for minimum order quantities, ordering entities may negotiate special pricing and additional discounts with the awarded vendor.

2.2. Additional Vendor Responsibilities; Mailing Copies of Price Agreement on Request. The vendor on this Price Agreement must copy and mail the initial Price Agreement (and any amendments) free of charge to any state agencies/institutions and political subdivisions upon their request. Statewide distribution of printed price lists is a vendor option after the initial mailing. The awarded Vendor will be required to provide fax price quotes as requested by individual agencies. The vendor given an award from this bid must notify the State Purchasing Office immediately of any change of vendor name or address, back order problems, price changes, etc.

2.3. Product Changes/Substitutions In the event of product deletion or modification the State Purchasing Office must be notified immediately. In such cases, vendor shall include specifications of the suggested product replacing the item, and a price offering for the replacement item. No substitutions will be allowed without prior approval of the State Purchasing Office. On substitution items, the State reserves the right not to procure the substituted items, and additionally retains the right to procure substitutions outside this Price Agreement. Throughout the term of this agreement, items may be added or deleted according to requests of the using agencies and/or usage reports.

2.4. Internet Home Page/Word File pricing format Vendor will either need to maintain current pricing information, names of primary sales person and technicians on an electronic World Wide web homepage, or furnish a Word Perfect or Microsoft compatible electronic file using a format specified by the State Purchasing Office, Division of Finance and Procurement, that contains the product list with published list prices from which discount will be deducted.

2.4.1. Prices must be updated at least on a quarterly basis, but it will be a benefit to the vendor to update the database as their prices change. If the Vendor elects to maintain its own web homepage with product descriptions and pricing, Vendors will provide the URL (Uniform Resource Locator) of their homepage to the State Purchasing Office, Division of Finance and Procurement for inclusion in the State of Colorado World Wide Web site. The URL must only show the products and pricing for the particular price agreement category and/or products described in this document. Content must be pre-approved by the State Purchasing Office. The electronic file or URL must be functional within three weeks after vendor is notified of award. All prices and product lists (whether the vendor chooses an electronic format or URL) must be kept current by the vendor.

2.4.2. The State Purchasing Office, Division of Finance and Procurement reserves the right to post on the web the vendor's pricing with product descriptions (or a URL link to this information) on the Internet. (Website is: www.gssa.state.co.us).

2.4.3. Vendor must provide a complete price list in machine-readable format to any State agency or institution upon their request.

2.4.4. Vendor must notify the State Purchasing Office immediately of any change of vendor name or address, back order problems, price changes, etc.

2.5. VOLUME REPORTS

2.5.1. Quarterly Volume Reports The vendor will be required to submit quarterly volume reports for their company to the State Purchasing Office. A vendor's failure to submit these any report required in this paragraph (Volume Reports) in a timely manner, and in a format acceptable to the state, shall be sufficient cause for the state, at its sole discretion, to terminate their price agreement for cause. Reports are due within 15 (fifteen) calendar days of the close of each calendar quarter. Vendor shall provide the following summary for each item for which it has the award:

- a Identity and volume for each ordering entity (state agency, institution or political subdivision);
- b. Number of entities and total number/volume of orders for each political status category (agency, institution, or political subdivision) for the quarter;
- c. Total dollar value of purchases by each political status category (agency, institution, or political subdivision);
- d. Estimated cost savings based on volume and discounts from established list and catalog prices (using a format established by the State Purchasing Office)

2.5.2. The contractor must also provide detailed reports to any state agency requesting usage for their agency against this state price agreement

2.5.3. Comprehensive Sales History Reports. In addition, Vendor(s) receiving resulting award(s) must furnish comprehensive sales history reports to the State approximately once per year or at any time within 15 days notice from the State Purchasing Office that these reports are needed. Comprehensive reports may contain the information above for the particular time period requested (normally 10 to 12 months) requested as well as 1) the dollar amount purchased for each category listed in this bid and on resulting award, and 2) the quantity sold of each individual product purchased on the price agreement.

2.6. PRICE AGREEMENT TERMINATION

2.6.1. Unless the Price Agreement is designated "mandatory" or specifies minimum orders that the State is required to execute, either party may terminate the price agreement upon sixty (60) days prior written notice. The vendor remains responsible for providing the reports specified in this subsection. This termination shall not affect orders placed before date of the written notice. Unless approved by the State Purchasing Office, after the date of written notice, the vendor shall not accept any new orders having performance periods extending beyond the effective date of the termination.

2.6.2. Either party may terminate the Price Agreement for default upon ten (10) days written notice. Such written shall provide the other party with a written description of the grounds for the default.

2.6.3. In the event the agreement is terminated, the State reserves the right to negotiate a replacement Price Agreement as it deems to be in the best interests of the State to provide suitable replacement availability at fair and reasonable pricing for the remaining term of the terminated Price Agreement, including any options.

3. AUDIT AND RECORDKEEPING The Vendor shall permit the State or any other duly authorized agent of the State to audit, inspect, examine, excerpt, copy and/or transcribe contractor's records during the term of this contract and for a period of one (1) years following termination of this contract or final

payment hereunder, whichever is later, to assure compliance with the terms hereof. The Vendor shall retain records concerning orders and pricing for a sufficient period of time to permit the State to exercise its audit right under this paragraph.

4. PRICING AND CREDITS

4.1. Unless otherwise specified in the solicitation, price agreement prices will be proposed at the same F.O.B. destination price throughout the State of Colorado.

4.2. Unless otherwise specified in the solicitation, supplies ordered under this price agreement may be returned in the original packaging by the ordering entity within thirty (30) days of delivery without assessment of a restocking or other fee.

5. PRICE AGREEMENT/ORDERS TERMS AND CONDITIONS

5.1. Except as replaced, modified, or supplemented by the terms of this solicitation and the order, orders for supplies and commodities by State agencies and institutions will be governed by the Purchase Order and insurance terms and conditions in sections 4.1 through 4.4 the BIDS State of Colorado Solicitation Instruction.

5.2. The State reserves the right to negotiate and clarify the terms and conditions where there is only a negligible affect on price/cost, quality, delivery, or other performance.

6. WARRANTIES

Bidders are required to provide warranty information in their responses to this solicitation. Warranty information must include the terms and conditions for each specific model of vest.

Any prospective bidder who submits warranty information for products shall meet the following requirements:

1. Bidders responses that contain products currently in use shall have the exact same warranty periods, terms, and conditions that were in effect prior to the issuance of this solicitation. No modifications or changes to prior warranty information are acceptable.
2. For new products not currently in use, bidders shall provide all warranty information.
3. Bidders responses shall clearly explain the length of the warranty period, and all applicable terms and conditions.

The State of Colorado will evaluate the warranty information given for any product in the bidders response to determine whether the product will meet the requirements specified in this Invitation for Bid.

7. TAX EXEMPT STATUS

7.1 State agencies generally are tax-exempt and is not liable for any sales, use, excise, property, or other taxes imposed by any federal, state or local government tax authority. The State's FEIN # is 84-730123K. The State's tax exemption number is 98-02565. The State is also not liable for any franchise taxes or taxes related to the income of the contractor. No taxes of any kind shall be charged to the State. Contractor is hereby notified that when materials are purchased for the benefit of State ordering entities, some political subdivisions require the vendor to pay sales or use taxes even though the ultimate product or service is provided to the State. These sales or use taxes will not be reimbursed by the ordering entity, nor will any prices or rates in this Price Agreement be adjusted on account of such taxes.

7.2 Contractor will accord the same tax-free treatment to political subdivision to the extent that they establish like exemption from taxes.

8. REPORTING Contractor will submit quarterly volume reports to the State Purchasing Office showing total number and amount of orders, per ordering entity, in accordance with instructions provided by the State Purchasing Office. The first report will be due on or before the 15th day following the end of each quarter. Failure to submit these reports in a timely manner may be cause for termination of the Price Agreement. The State Purchasing Office reserves the right to inspect and audit the contractor's records regarding any and all State projects performed by the contractor, and each ordering entity has the right to inspect and audit the contractor's records regarding any order placed by the ordering entity.

9. COMMUNICATIONS With respect to orders placed by State ordering entities, all communications, including reports, notices, and advice of any nature, concerning administration of orders placed under this Price Agreement, must be furnished solely to the purchasing agent within the ordering entity's purchasing office, or to such other individual identified in writing in the order.

10. CONFIDENTIALITY In the event the contractor or its employees shall obtain access to any confidential information, records or files of the ordering entity in connection with the performance of its obligations under this agreement or any order placed pursuant to this agreement, the contractor shall keep such records, files, and information confidential and shall comply with all laws and regulations concerning the confidentiality of such records to the same extent as such laws and regulations apply to the ordering entity. "Confidential information, records or files" shall not mean information, which the ordering entity has denominated in writing as not confidential; or information, which at the time of disclosure is in the public domain by having been printed and published and widely available to the public, e.g. information in public libraries or repositories. The contractor shall notify its employees in writing that they are subject to the confidentiality requirements set forth above.

11. REMEDIES

Unless otherwise agreed, in addition to any other remedies provided for in the solicitation, this agreement or the order, and without limiting its remedies otherwise available at law, the ordering entity may exercise the following remedial actions if the contractor substantially fails to satisfy or perform the duties and obligations in the contract. Substantial failure to satisfy the duties and obligations shall be defined to mean significant insufficient, incorrect, improper performance, activities, or inaction by contractor. These remedial actions are as follows:

1. Suspend contractor's performance pending necessary corrective action as specified by the ordering entity without contractor's entitlement to adjustment in price/cost or schedule; and/or
2. Withhold payment to contractor until the necessary services or corrections in performance are satisfactorily completed; and/or
5. Terminate the contract for default.

The above remedies are cumulative and the ordering entity, in its sole discretion, may exercise any or all of them individually or simultaneously.

12. TERMINATION FOR CONVENIENCE

Subject to the terms of any minimum quantity guarantee specified in the award, this Price Agreement may be terminated by either the State or the contractor upon sixty (60) days written notice. Upon notice of termination, no orders may be accepted by the contractor with performance periods extending beyond the effective date of termination. However, subject to the right of the ordering entity to terminate, or as otherwise agreed between the parties, the contractor will perform obligations consistent with this agreement for orders in effect on the effective date of the termination.

Unless otherwise agreed, the ordering entity through its designated procurement officer (or other authorized representative) may terminate any order for convenience, and such termination shall be governed by this provision.

a. Termination. The procurement officer may, when the interests of the ordering entity (also known as "purchasing agency") so require, terminate any order, in whole or in part, for the convenience of the ordering entity. The procurement officer shall give at least twenty (20) days written notice of the termination to the contractor specifying the part of the contract terminated and when termination becomes effective. This in no way implies that the ordering entity has breached the contract by exercise of the Termination for Convenience Clause.

13. TERMINATION FOR DEFAULT

The State Purchasing Office (with respect to this Price Agreement) or the ordering entity (also referred to as "purchasing agency") through its designated procurement officer (or other authorized representative) may terminate (with respect to any order) the contract for default, and such termination shall be governed by this provision.

a. Default. If the contractor refuses or fails to timely perform any of the provisions of this contract, with such diligence as will ensure its completion within the time specified in this contract, the procurement officer may notify the contractor in writing of the non-performance, and if not corrected with ten (10) days of receipt of such notice, such officer may terminate the contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. The contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services elsewhere.

b. Contractor's Duties. Notwithstanding termination of the contract and subject to any directions from the procurement officer, the contractor shall take timely reasonable, and necessary action to protect and preserve property in the possession of the contractor in which the purchasing agency has an interest.

c. Compensation. Payment for completed supplies delivered and accepted by the purchasing agency and for acceptable services performed and accepted by the purchasing agency shall be at the contract price. The purchasing agency may withhold amounts due to the contractor as the procurement officer deems to be necessary to protect the purchasing agency against loss because of outstanding liens or claims of former lien holders and to reimburse the purchasing agency for the excess costs incurred in procuring similar goods and services.

d. Excuse for Nonperformance or Delayed Performance. The contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms if such failure arises out of acts of God; acts of the public enemy; acts of the any governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. Upon request of the contractor, the procurement officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the purchasing agency.

e. Erroneous Termination for Default. If after notice of termination of the contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contractor was not in default under the provisions of this clause, or that the delay was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the termination for convenience clause.

14. INSURANCE

a. The contractor shall obtain, and maintain at all times during the term of this agreement and orders under this agreement insurance in the following kinds and amounts:

(i) Standard Worker's Compensation and Employer Liability as required by State statute, including occupational disease, covering all employees on or off the work site, acting within the course

and scope of their employment.

(ii) General, Personal Injury, and Automobile Liability (including bodily injury, personal injury, and property damage) minimum coverages:

(1) Combined single limit of \$600,000 written on an occurrence basis.

(2) Any aggregate limit will not be less than \$1,000,000.

(3) Combined single limit of \$600,000 for policies written on a claims-made basis. The policy shall include an endorsement, certificate, or other evidence that coverage extends three years beyond the performance period of this Price Agreement.

(4) If any aggregate limits are reduced below \$600,000 because of claims made or paid during the required policy period, the contractor shall immediately obtain additional insurance to restore the full aggregate limit and furnish a certificate or other document showing compliance with this provision.

b. The State of Colorado shall be named as additional insured on each liability policy. The State is not requesting "additional named insured" status. Additional insured endorsements are not required on professional, workers' compensation, or employer liability policies.

c. The insurance shall include provisions preventing cancellation without 60 days prior notice by certified mail to the State.

d. The contractor shall provide the following documentation to the State within 7 working days of a request therefore:

a) **Certificate/s** of adequate insurance coverage, each with a reference to the State being named as an additional insured, or

b) **Certificate/s** of adequate insurance coverage and an **endorsement/s** of additional insured coverage.

e. Product Liability Insurance. All manufacturers shall have a minimum of \$10,000,000 in product liability insurance for all products for the term of the resulting award(s).

15. LICENSES, PERMITS, AND RESPONSIBILITIES

Contractor certifies that, at the time of entering into this agreement, it has currently in effect all necessary licenses, certifications, approvals, insurance, permits, etc. required to properly perform the services and/or deliver the supplies covered by this agreement. Contractor warrants that it will maintain all necessary licenses, certifications, approvals, insurance, permits, etc. required to properly perform this agreement and orders under this agreement, without reimbursement by the ordering entity or other adjustment in contract price. Additionally, all employees of contractor performing services shall hold the required licenses or certification, if any, to perform their responsibilities. Contractor further certifies that, if a foreign corporation or other entity, it currently has obtained and shall maintain any applicable certificate of authority to do business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or nonrenewal of necessary licenses, certifications, approvals, insurance, permits, etc. required for contractor to properly perform this agreement or orders under this agreement, shall be grounds for termination of the contract for default.

16. GOVERNMENTAL IMMUNITY

Notwithstanding any other provision of the contract to the contrary, no term or condition of the contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, section 24-10-101, *et seq.*, C.R.S., as now or hereafter amended.

17. ASSIGNMENT AND SUCCESSORS

The contractor agrees not to assign rights or delegate duties under this agreement or orders placed under

this agreement, or subcontract any part of the performance required under the agreement or orders (other than subcontractors identified in the contractor's bid or proposal response), without the express, written consent of the State, in the case of this Price Agreement, and the ordering entity, in the case of orders placed under this Price Agreement. This provision shall not be construed to prohibit assignments of the right to payment to the extent permitted by section 4-9-318, C.R.S., provided that, in the case of ordering entities who are State agencies, written notice of assignment adequate to identify the rights assigned is received by the controller for the agency, department, or institution executing this contract. Such assignment shall not be deemed valid until receipt by such controller -- as distinguished from the State Controller -- and the contractor assumes the risk that such written notice of assignment is received by the controller for the State agency, department, or institution involved

18. SEVERABILITY

To the extent that the contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the contract, the terms of the contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof. Any order placed by any enrolled entity pursuant to this Price Agreement shall be severable, and the State Purchasing Office shall not be a party to any such purchase order or contract.

19. WAIVER

The waiver of any breach of a term, provision, or requirement of the contract shall not be construed or deemed as waiver of any subsequent breach of such term, provision, or requirement, or of any other term, provision, or requirement.

20. ENTIRE UNDERSTANDING

This agreement and orders placed hereunder are intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment thereto shall have any force or effect whatsoever, unless embodied herein in writing.

21. SURVIVAL OF CERTAIN CONTRACT TERMS

Notwithstanding anything herein to the contrary, the parties understand and agree that there are terms and conditions of the contract which may require continued performance, compliance, or effect beyond the termination date of the Price Agreement and order, and such terms and conditions shall survive such expiration or termination of the orders and this Price Agreement and shall be enforceable by the ordering entity in the event of such failure to perform or comply by the contractor.

22. GOVERNING LAW AND VENUE

The laws of the State of Colorado shall be applied in the interpretation, execution, and enforcement of this Price Agreement and orders under it. Unless otherwise agreed, venue for any action related to performance of this contract where the ordering entity is a State agency shall be the City and County of Denver.

23. COLORADO SPECIAL PROVISIONS. The following Colorado Special Provisions, required by Fiscal Rule 3-1, 1 CCR 101-1, shall be applicable to any order placed by an agency, department, or institution of the State of Colorado and shall govern in the event of any conflict or inconsistency between the terms of any order and this Price Agreement. With respect to paragraph 1 of the Special Provisions, State Controller or designee approval is not required for State purchase orders issued against this Price Agreement by State purchasing agents.

SPECIAL PROVISIONS (CO)

(Not for Use with Inter-Governmental Contracts)

1. CONTROLLER'S APPROVAL. CRS 24-30-202 (1)

This contract shall not be deemed valid until it has been approved by the Controller of the State of Colorado or such assistant as he may designate.

2. FUND AVAILABILITY. CRS 24-30-202 (5.5)

Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

3. INDEMNIFICATION.

The Contractor shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

4. INDEPENDENT CONTRACTOR. 4 CCR 801-2

THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX AND LOCAL HEAD TAX ON ANY MONIES PAID BY THE STATE PURSUANT TO THIS CONTRACT. CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONTRACTOR OR THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. CONTRACTOR SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKERS' COMPENSATION (AND PROVIDE PROOF OF SUCH INSURANCE WHEN REQUESTED BY THE STATE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF THE CONTRACTOR, ITS EMPLOYEES AND AGENTS.

5. NON-DISCRIMINATION.

The contractor agrees to comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.

6. CHOICE OF LAW.

The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense, or

otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and State laws, rules, and regulations that have been or may hereafter be established.

7. VENDOR OFFSET. CRS 24-30-202 (1) & CRS 24-30-202.4

Pursuant to CRS 24-30-202.4 (as amended), the State Controller may withhold debts owed to State agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 21, Title 39, CRS; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) owed amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller.

8. SOFTWARE PIRACY PROHIBITION Governor's Executive Order D 002 00

No State or other public funds payable under this Contract shall be used for the acquisition, operation, or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. The Contractor hereby certifies that, for the term of this Contract and any extensions, the Contractor has in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that the Contractor is in violation of this paragraph, the State may exercise any remedy available at law or equity or under this Contract, including, without limitation, immediate termination of the Contract and any remedy consistent with United States copyright laws or applicable licensing restrictions.

9. EMPLOYEE FINANCIAL INTEREST. CRS 24-18-201 & CRS 24-50-507

The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.